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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

WILLIAMS LEGACY PARTNERS LLC,

Plaintiff and Respondent,

v.

KOUROSH IZADPANAHI et al.,

Defendants and Appellants.

B255807

(Los Angeles County
Super. Ct. No. SC118891)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Norman P. Tarle, Lisa Hart Cole, Judges. Affirmed.

Appell Shapiro, Scott E. Shapiro, Sean J. Haddad, for Plaintiff and Respondent.

Kourosh Izadpanahi and Nahid Dolkhani, in pro. per., for Defendants and Appellants.

* * * * *

The trial court entered a default judgment for plaintiff Williams Legacy Partners LLC (plaintiff) after it took defendants Kourosh Izadpanahi (Izadpanahi) and Nahid Dolkhani's (collectively, defendants) motion to quash off calendar and defendants had no responsive pleading on file. Defendants claim that the court erred in entering that default judgment and in denying their request to set aside that default under Code of Civil Procedure section 473, subdivision (b).¹ We conclude there was no error, and affirm.

FACTS AND PROCEDURAL BACKGROUND

The record defendants provided on appeal is inadequate, but we have pieced together the proceedings below from the superior court's record, the briefs, and the items we have judicially noticed.

Plaintiff leased a restaurant to defendants in 2008, and defendants subsequently fell behind in their rent payments. On October 30, 2012, plaintiff filed an unlawful detainer lawsuit to regain possession of the property and to collect past-due rent, holdover damages and attorney's fees.

On November 9, 2012, defendants filed a motion to quash plaintiff's unlawful detainer complaint on several different grounds, and calendared the motion for hearing nearly four months later, on March 7, 2013. Defendants did not file a proposed answer along with their motion to quash.

Plaintiff then filed an ex parte application to take defendants' motion to quash off calendar. Plaintiff cited two reasons: (1) defendants improperly served their motion to quash; and (2) defendants improperly calendared the hearing on their motion, which is required by section 1167.4, subdivision (a), to be set three to seven days after the notice of motion to quash is filed. Defendants filed a written opposition to the application. Although defendants received notice of the hearing on plaintiff's ex parte application—November 29, 2012—they elected not to appear.

¹ All further statutory references are to the Code of Civil Procedure unless otherwise indicated.

At the hearing, the trial court learned that the check defendants had used to pay the filing fee for their motion to quash had bounced, although defendants later learned that this was due to a bank error. The trial court ultimately took the motion to quash off calendar for two reasons: (1) the motion was calendared in violation of section 1167.4, subdivision (a); and (2) the motion was not validly filed because defendants had not paid the filing fee. Because defendants had no responsive pleading on file, the court clerk entered a default as to possession and, the next day, the court entered a default judgment as to possession.

On December 3, 2012, defendants moved for clarification of the trial court's order, to set aside the default judgment, and to dismiss plaintiff's lawsuit because defendant Izadpanahi had declared bankruptcy. The trial court denied defendants' motion to set aside the judgment, finding that its entry of a default judgment was appropriate and that defendants' motion to set aside was procedurally defective because it was not accompanied by an answer or other responsive pleading, as required by section 473, subdivision (b). The court dismissed the remaining motions because defendants, as defaulted parties, no longer had standing in the lawsuit.

On January 8, 2013, the trial court stayed the remaining portions of plaintiff's unlawful detainer action regarding damages. A few days later, on January 17, 2013, the bankruptcy court issued an order retroactively nullifying the automatic stay in defendant Izadpanahi's bankruptcy proceeding back to the date that the bankruptcy petition was filed (September 11, 2012), as to the issue of possession.

On August 23, 2013, defendant Izadpanahi voluntarily dismissed his bankruptcy petition. Two months later, on October 23, 2013, plaintiff filed a request for an amended default judgment that awarded damages of \$84,831. That same day, the trial court entered an amended default judgment in that amount.

Defendants appealed.²

DISCUSSION

Defendants challenge the trial court's entry of the initial default judgment and its denial of their motion to set aside that judgment. We review both for an abuse of discretion. (*Hearn v. Howard* (2009) 177 Cal.App.4th 1193, 1200; *Anastos v. Lee* (2004) 118 Cal.App.4th 1314, 1318-1319.) We review the court's ruling—not its reasoning—and will accordingly affirm if the ruling is correct “‘regardless of the correctness of the grounds upon which the court reached its conclusion.’ [Citation.]” (*United Pacific Ins. Co. v. Hanover Ins. Co.* (1990) 217 Cal.App.3d 925, 933.)

I. Entry of default judgment

The trial court properly entered its initial default judgment against defendants. Defendants' motion to quash was properly taken off calendar because its initial calendaring for a hearing in March 2013 violated the statutory mandate of section 1167.4, subdivision (a) that motions to quash in unlawful detainer cases be set for hearing within three to seven days of noticing the motion. And once the motion to quash was taken off calendar, the trial court properly entered a default judgment because section 1169 requires a court to enter a default “[i]f . . . any defendant served with a summons does not appear and defend” an unlawful detainer complaint filed against him. (§ 1169.)

Defendants level three attacks at this reason. First, they argue that they were unaware of section 1167.4, subdivision (a)'s calendaring requirement and the trial court's clerk selected the March 2013 hearing date. But it is a party's responsibility to know the law and to object if the law is being violated; the fact that defendants are representing

² The timeliness of defendants' appeal is not beyond dispute. Although their notice of appeal was filed within 180 days of the trial court's entry of the amended default judgment, defendants—in two different filings—gave two different dates as to when they were served with notice of the entry of that judgment; one is within the 60-day deadline for filing a notice of appeal, and the other is not. (Cal. Rules of Court, rule 8.104(a)(1).) Because one of those dates is within the window for timeliness, we arguably have jurisdiction and will consider the merits of the appeal.

themselves does not relieve them of these responsibilities. (*Burnete v. La Casa Dana Apartments* (2007) 148 Cal.App.4th 1262, 1267 [““[T]he in propria persona litigant is held to the same restrictive rules of procedure as an attorney.” [Citations.]”]; *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 981, 984-985 [“[S]elf-representation is not a ground for exceptionally lenient treatment . . . the rules of civil procedure must apply equally to parties represented by counsel and those who forgo attorney representation”].)

Second, defendants assert that the trial court lacked authority to enter a default judgment because their check for the motion’s filing fee bounced, and section 411.20, subdivision (a) grants them 20 days from the date the clerk sends a letter notifying them of the problem (in this case, on November 29, 2012) to cure that deficiency—something defendants did within that 20-day window. (See § 411.20, subd. (a) [if a clerk accepts a check that later bounces, “the party has 20 days from the date of mailing of the notice [regarding the bounced check] within which to pay the filing fee and the administrative charge . . .”].) We are unpersuaded. The trial court’s entry of default alternatively—and independently—rests on defendants’ noncompliance with section 1167.4, subdivision (a)’s calendaring requirements coupled with the fact that defendants had not timely filed any responsive pleading (see §§ 1169, 1167.3). This is enough to sustain the validity of the entry of default. (See *Caro v. Procter & Gamble Co.* (1993) 18 Cal.App.4th 644, 655-656 [when a trial court gives multiple reasons for its order, “[a]ny valid pertinent reason stated will be sufficient to uphold the order”].) Otherwise, the bank’s error would end up negating a default that was properly entered.

Lastly, defendants argue that the trial court lacked the power to enter the default, at least against defendant Izadpanahi, because he had previously filed a bankruptcy petition that triggered an automatic stay of all judicial proceedings against him. (11 U.S.C. § 362, subd. (a).) This argument lacks merit because the bankruptcy court, less than three months later, retroactively nullified the automatic stay as to any proceedings seeking possession of property. This annulment renders the trial court’s action valid. (*In re Boni* (9th Cir. B.A.P. 1999) 240 B.R. 381, 384 [“By annulling the

automatic stay, the bankruptcy court . . . validate[s] an act that would otherwise be void as a violation of the automatic stay”].) Moreover, once defendant Izadpanahi dismissed his bankruptcy petition in August 2013, the trial court was able to proceed against both defendants with respect to monetary damages, and to amend the default judgment to include those damages. Because defendants do not on appeal present any argument or legal authority to dispute plaintiff’s prove up of those damages under section 585, we have no basis to question the calculation of those damages.

For these reasons, the trial court’s entry of the initial default judgment was correct.

II. Motion to set aside default judgment

The trial court did not abuse its discretion in denying defendants’ motion to set aside the default judgment. A court has the discretion to set aside a default judgment due to a party’s “mistake, inadvertence, surprise or excusable neglect.” (§ 473, subd. (b).)

We need not reach the merits of the trial court’s denial because defendants’ motion was procedurally defective. A motion to set aside judgment must be “accompanied by a copy of the answer or other pleading proposed to be filed therein.” (§ 473, subd. (b).) Although courts do not interpret this requirement strictly and will permit a party to file its pleading at any time before the hearing on the motion to set aside (*Carmel, Ltd. v. Tavoussi* (2009) 175 Cal.App.4th 393, 402-403; *Job v. Farrington* (1989) 209 Cal.App.3d 338, 340), defendants to this day have yet to file an answer or other responsive pleading.

DISPOSITION

The judgment is affirmed. Costs on appeal are awarded to plaintiff.

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We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.
HOFFSTADT

_____, J.
CHAVEZ